

### **REMARKS**

Claims 1, 2, 6, 7 and 11-21 are now pending in the application. No additional claims have been cancelled or added. Claims 1 and 6 have been amended. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 1, 6, 11, 13-16, and 18-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Estberg et al. (U.S. Pat. No. 6,148,337) in view of Shah et al. (U.S. Pat. No. 6,678,835). Claims 2, 7, 12, and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Estberg and Shah as applied to the independent claims above and in view of Miloslavsky (U.S. Pat. No. 6,981,020) in further view of Cravo De Almeida et al. (U.S. Pat. Pub. No. 2003/0055931). These rejections are respectfully traversed.

Claim 1 has been amended to emphasize that the apparatus is for acquiring and storing communications data from a plurality of communication resources for delivery to management systems. This limitation distinguishes the invention significantly from that of the prior art of record. In particular, both Estberg and Shah relate to operations within the network itself. Thus, they relate to properties and activities of actual communication devices or communication resources. The present invention is not directed towards types of communication resources at all. It does not change, improve, or influence in any way the actual communications that are taking place. It is only concerned with

monitoring the operations performed by such resources such that it acquires data relating to resource use and then conveys this data to management systems.

The system has several modes of operation. The mode of operation forming the basis for claim 1 is the immediate data delivery mode in which data is only retained in the event that the communication link fails.

In Shah, the Examiner is now referring to the disclosure starting from line 40 of column 21. This refers to step 432 in which reference is made to the administrator's log. Again, this emphasizes that Shah is concerned with the actual communication system itself and not an apparatus for monitoring the communications system.

It states at line 48 that the policy server checks whether the updates have been successful. Again, this emphasizes that a communication system is receiving program updates. It goes on to state that the policy server waits to receive an acknowledgment from the policy enforcer that the updates have been successfully completed. Upon a positive response from the policy enforcer, the policy server deletes the apply attribute from the policy enforcer's log. Otherwise, if the update was not successful, the applied log is resent the next time another apply function is invoked. Alternatively, the failed policy enforcer transmits a request to the policy server of the log of non-applied changes when it rejoins the network. Thus, Shah is concerned with program updates. A log is maintained as to whether a program update has occurred and appropriate action is taken in relation to the update status.

It is noted that we have received comments from the Examiner to the effect that the prior art teaches making a "backup" which the Examiner considers to involve the act of copying the received data to the backup system. This position does not appear to be

entirely consistent with the paragraph of Shah considered above. However, it is acknowledged that the copying of data in a backup system is a well known technique.

It should, therefore, be noted that the present invention is not directed towards making a backup. The system, as claimed, is not directed towards making multiple copies of the usage data, one of which could be considered as a backup. In the preferred mode of operation, a backing up procedure does not occur because the usage data is conveyed immediately to the management systems. The usage data is only retained when the communication link fails. The retention of this data may be considered as a buffering operation. The data only exists within the buffer and it does not exist anywhere else. Consequently, it could not be considered to be a backup. Claims 1 and 6 have been amended to state that the usage data is only retained when the communication link fails.

The Examiner believes that the concept as claimed is “likely” to be found elsewhere in the prior art. Before rejecting the current application, applicant is of the opinion that the onus is upon the Examiner to locate this piece of prior art which shows the acquisition of communication usage data from a plurality of communication resources in which the usage data is delivered immediately (without creating a backup) over a communication link and only retained when the communications link fails.

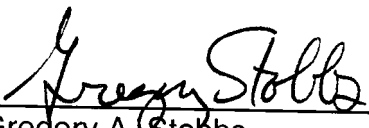
## **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is

believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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